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**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
ARIZONA**

KEVIN & SHAWN ROLLE, husband &
wife,

Plaintiffs,

vs.

LAW OFFICE OF SAMUEL STREETER,
PLLC; COLLECT AMERICA, LLC;
BANK ONE n/k/a CHASE MANHATTAN
BANK; JANE DOES 1-99; JOHN DOES
1-99, BUSINESS ENTITIES 1-99,

Defendants.

NO. CV08-274-TUC-CKJ

AMENDED COMPLAINT

(Tort non-vehicle)

Jury Trial Requested

Pursuant to Rule 15(a) of the Federal Rules of Civil Procedure, Plaintiffs Kevin and Shawn Rolle hereby amend their complaint, by and through counsel undersigned, as to Defendants Chase :

PARTIES & JURISDICTION

1. Kevin Rolle is a married man, and at all times relevant to this action, was domiciled in Pima County Arizona.

2. Shawn Rolle is a married woman, and at all times relevant to this action was domiciled in Pima County Arizona.

3. The Law Office of Samuel Streeter, PLLC is, upon information and belief, a Texas Private Limited Liability Company, doing business in the State of Arizona and Pima County as a collection agent.

4. Bank One was a foreign banking institution licensed to do business in the State of Arizona.

1 5. Chase Bank is a foreign bank and the successor in interest to Bank One.

2 6. Jane Does 1-99 and John Does 1-99 are aliases used to identify individuals who may or
3 may not bear liability for the acts delineated for this Complaint. When and if discovery and
4 disclosure reveal the true identities of these parties, Plaintiffs reserve the right to amend this
5 Complaint to conform with that evidence.
6

7 7. Collect America is a foreign business entity.

8 8. Business Entities 1-99 are aliases used to identify entities which may or may not bear
9 liability for the acts delineated in this Complaint. When and if discovery and disclosure reveal the
10 true identities of these parties, Plaintiffs reserve the right to amend this Complaint to conform with
11 that evidence.
12

13 9. All named Defendants have transacted business within this State and County and have
14 caused the acts to occur which are the basis of this Complaint. Jurisdiction is proper in this Court.

15 10. Venue is proper in this Court.

16 FACTUAL BASIS

17 11. Kevin Rolle is a Technical Sergeant in the United States Air Force.

18 12. Before his marriage to Shawn Rolle, Kevin Rolle applied for and acquired a credit card
19 from Bank One, n/k/a Chase Manhattan Bank.
20

21 13. Mr. Rolle maintained that credit card for several years. At times he carried a substantial
22 balance. At times, the balance on the card was reduced to zero.

23 14. In June of 2004, Mr. Rolle was deployed outside this nation.

24 15. In that month, Mrs. Rolle contacted Bank One regarding payment on the account. When
25

1 informed that Sgt. Rolle had been deployed overseas, Bank One informed Mrs. Rolle that the
2 account was eligible for accommodation under the Servicemembers' Civil Relief Act of 2003 (the
3 "SCRA").

4 16. Bank One asked for that Sgt. Rolle had been deployed outside outside of the country.

5 17. Mrs. Rolle provided Bank One with a copy of Sgt. Rolle's Deployment Order.

6 18. Bank One stated that the Order was not an Executive Order. Mrs. Rolle disputed that
7 fact, but Bank One stated that the Executive Order would not be necessary as long as Mrs. Rolle
8 obtained the original enlistment order.

9 19. Bank One then stated to Mrs. Rolle that Sgt. Rolle was eligible for relief under that
10 SCRA and stated that, pursuant to the Act, the interest rate on his credit card would be reduced to
11 six (6) percent and that his payments would be lowered accordingly.

12 20. Contrary to Bank One's assertions, the Rolles continued to receive statements from
13 Bank One recording that the interest rate on the account remained the same. Additionally, the
14 account continued to accrue penalties.

15 21. Mrs. Rolle called continually to inform Bank One of it error. Each time Bank One
16 insisted it was aware of the problem, that Sgt. Rolle was entitled to relief, and that reolving the
17 issue was simply a matter of internal policy.

18 22. Sgt. Rolle managed to contact Bank One from a satellite phone in Uzbekistan. Bank One
19 promised Sgt. Rolle that he was eligible for relief under the SCRA, and further stated that it had
20 instructed Mrs. Rolle to make no further payment on the account until the issues were resolved.

21 23. June 27, 2004, Mrs. Rolle again contacted Bank One regarding the account. Bank One

1 informed the Rolles that it had not yet reached a decision regarding the disposition of the matter.

2 24. On June 29, 2004, Mrs. Rolle received a letter from Bank One informing her that her
3 husband was not entitled to relief under the SCRA.

4 25. Mrs. Rolle immediately contacted representatives of Bank One. Each time, each
5 representative told her that Sgt. Rolle was eligible for relief under the SCRA and that she simply
6 needed to send Bank One additional paperwork.
7

8 26. All the documents requested by Bank One were forwarded to it.

9 27. On July 13, 2004, Mrs. Rolle received a letter from Bank One informing her that Sgt.
10 Rolle was not eligible for the SCRA because the balance of the account originated in 1995 and that
11 he enlisted in 1994.

12 28. Mrs. Rolle challenged the relevance of this information to the issue regarding the SCRA
13 and Bank One admitted its error and again assured Mrs. Rolle that Sgt. Rolle was entitled to relief
14 under the SCRA.
15

16 29. Bank One also asserted that Sgt. Rolle had not actually been deployed to Uzbekistan and
17 attempted to use that as an excuse to deny relief under the SCRA. Later, Bank One admitted that
18 this too was a substantial error.

19 30. During this time, payments made to Bank One were sporadic because of the burdens
20 placed on Mrs. Rolle by Sgt. Rolle's absence and Bank One's insistence on a punitive interest rate
21 and the accrual of various and sundry fees. Additionally, Mrs. Rolle continually relied on Bank
22 One's instructions not to make any payments on the account until the loan was re-amortized
23 according to the dictates of the SCRA.
24

1 31. Later that month, the Rolles were in the process of closing on a new residence.

2 32. The Friday prior to settlement, the Rolles' mortgage lender informed them that their
3 account with Chase Bank had been listed as thirty days late and that therefore, they were ineligible
4 for their original loan.

5 33. Mrs. Rolle and the mortgage company engaged in a conference call with Bank One
6 which admitted its mistake but that it could not rectify the problem earlier than thirty days hence
7 because of the "paperwork" involved.

8 34. The mortgage company offered either to significantly change the terms of the loan
9 offered to the Rolles, or to cancel the settlement completely. The Rolles opted for the latter option.
10

11 35. Without notice to the Rolles, Bank One then demanded in excess of \$3,000.00 from the
12 Rolles simply not to put the account into chargeoff.

13 36. The Rolles attempted to continue making payments, but did not have the large lump sum
14 demanded by Bank One.

15 37. Without further notice, and while the parties were still trying to resolve the SCRA
16 issues, Bank One placed the account in collections, accelerated the debt and transferred the debt to
17 an outside law firm.
18

19 38. In January of 2005, the Rolles were contacted by the law firm of Valentine &
20 Karbaratas. That firm offered to settle the "debt" owed to Bank One for \$15,000.00.
21

22 39. Instead of accepting that offer, Mrs. Rolle contacted Consumer Credit Counseling
23 Services ("CCCS"). That entity informed the Rolles that Bank One might take the account out of
24 charge off if the Rolles started a payment plan with it and that any money received would be
25

1 forwarded to Bank One.

2 40. The Rolles agreed to this and diligently made payments of \$503.00 per month.

3 41. In July of 2005, the Rolles received a letter from Chase Manhattan Bank ("Chase"),
4 informing them that they had been removed from their debt management program for
5 nonpayment.
6

7 42. Mrs. Rolle called Chase which informed her that had not received payment. Mrs. Rolle
8 contacted CCCS which contacted Chase. Due to a mixup during the merger of chase and Bank
9 One, some payments had not been forwarded. That problem was rectified.

10 43. During this period, the Rolles continued to work directly with Chase.

11 44. In September of 2005, Mrs. Rolle finished her Associate's Degree and returned to the
12 workforce. Due to her return to work, the Rolle's required a second vehicle.

13 45. Sgt. Rolle called Chase, explained the situation, and asked for a brief respite from
14 payment on the account. Chase assured the Rolles that the requested accommodation had been
15 made.
16

17 46. Chase and the Rolles agreed that the Rolle's payments would begin again in January of
18 2006 at the rate of \$1,000.00 per month until the debt was retired.

19 47. On December 13, 2005, Chase sold the Rolles' debt to Collect America.

20 48. Collect America transferred the debt to the Law Office of Sam Streeter for collection
21 purposes.
22

23 49. On January 5, 2006, Mrs. Rolle received a telephone call from the Law Office of
24 Samuel Streeter ("Streeter"), informing her that the debt had been turned over to it for collection.
25

1 Streeter stated that the debt could be settled for \$13,310.00 if the Rolles could make a down
2 payment of five or six thousand dollars and pay the rest of in monthly installments.

3 50. Upon information and belief, the Law Office of Sam Streeter is a sub-entity, franchisee
4 or otherwise related to Collect America.

5 51. Collect America is therefore vicariously liable for the actions of the Law Office of Sam
6 Streeter.

7 52. Streeter alleged that the matter would go to suit if Mrs. Rolle did not accept this
8 settlement.

9 53. Sgt. Rolle's debt was acquired prior to marriage and therefore was his sole and separate
10 property.

11 54. Therefore, Mrs. Rolle bore absolutely no responsibility for this debt.

12 55. Therefore, contacting her regarding its disposition was improper and illegal.

13 56. Nonetheless, in order to acquire the funds necessary to meet the terms offered by
14 Streeter, Mrs. Rolle contacted her ex-husband regarding a personal loan.

15 57. Mrs. Rolle's ex-husband agreed to an advancement of one year's child support, or
16 \$8,800.00 in exchange for Mrs. Rolle forgoing all future child support payments. Mrs. Rolle
17 agreed.

18 58. The next day, Mrs. Rolle contacted Streeter to inform them of her arrangement with her
19 ex-husband.

20 59. Mrs. Rolle informed Streeter that she was not sure when the money from her ex-
21 husband would be deposited and asked for a short continuance of the matter.

1 60. Streeter informed her that the attorney in charge of the file had “noted” it, and that
2 unless a down payment was received that day, that suit would be filed the following week.

3 61. In a panic, Mrs. Rolle contacted her ex-husband who assured her that the money would
4 be in her account by noon the following Saturday.

5 62. Mrs. Rolle again contacted Streeter and informed them of this. Streeter then asked for a
6 post-dated check.

7 63. When Mrs. Rolle refused, Streeter informed her that the lawyer in charge of the file
8 would file suit and then call Sgt. Rolle’s base commander and in turn the base commander would
9 not allow Sgt. Rolle to re-enlist. Streeter then informed Mrs. Rolle hat such an action would ruin
10 Sgt. Rolle’s career and that he would be ineligible for re-enlistment in the Air Force.

11 64. Sgt. Rolle was again deployed during the time frame of these discussions and was
12 unable to discuss the situation with Mrs. Rolle.

13 65. Terrified, Mrs. Rolle agreed to give Streeter a postdated check.

14 66. At this point, Mrs. Rolle preliminarily investigated the matter online and became aware
15 of the Fair Credit Reporting Act (“FCRA”).

16 67. Mrs. Rolle called Streeter regarding the FCRA and her suspicion that Streeter stood in
17 violation of several of its terms.

18 68. During the conversation, Mrs. Rolle mentioned the possibility of retaining a lawyer and
19 contacting the Arizona Attorney General’s Office.

20 69. Streeter then threatened to take the settlement offer off of the table unless Mrs. Rolle
21 agreed not to contact a private attorney or the Arizona Attorney General’s Office.

1 78. Chase never informed the Rolles that they were again being billed for this account.

2 79. Luckily, Mrs. Rolle has a separate account with Chase through Southwest Airlines. The
3 agents responsible for that account began calling the Rolles and demanding payment on the
4 previous "overdue" account.
5

6 80. Chase noted on its new statements regarding the account that a \$3,000.00 amount had
7 been removed from the account as an "SCRA Refund."

8 81. Chase is the successor in interest to Bank One and as such is legally responsible for its
9 illegal and tortious actions.

10 82. Chase is legally responsible for the wrongful acts of its duly authorized agents, including
11 Collect America and Streeter.

12 83. Streeter, Collect America and Chase are legally responsible for the actions of their
13 employees performed in the course and scope of their employment.
14

15 84. The wrongful acts by Defendants, their agents and employees were spiteful, motivated
16 by avarice and greed and the product of an evil hand.

17 COUNT ONE-VIOLATIONS OF FCRA, FACTA & FDCP

18 85. Plaintiffs hereby reallege the allegations of the previous Paragraphs of this Complaint as
19 though fully set forth within.
20

21 86. Defendants have repeatedly violated the terms of the Fair Credit Reporting Act, the Fair
22 Debt Collection Practices Act and the Fair and Accurate Credit Transaction Act. Those actions by
23 Defendants are illegal and tortious.

24 87. As a result of those illegal and tortious acts of Defendants, Plaintiffs have suffered
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1 damages.

2 COUNT TWO-VIOLATIONS OF ARIZONA STATE CREDITOR LAW-STREETER

3 88. Plaintiffs hereby reallege the allegations of the previous Paragraphs of this Complaint as
4 though fully set forth within.

5 89. A.R.S. § 32-1051(3) states that collection agencies licensed in this State are under a duty
6 to act fairly and honestly with debtors.

7 90. The tortious and illegal acts committed by Streeter are in violation of that duty.

8 91. As a direct and proximate result of those acts, the Plaintiffs have suffered damage.

9 COUNT THREE-VIOLATIONS OF ARIZONA STATE CREDITOR LAW-CHASE

10 93. Plaintiffs hereby reallege the allegations of the previous Paragraphs of this
11 Complaint as though fully set forth within.

12 94. Although Chase is not a collections agency operating in the State of Arizona, Chase
13 is still bound to abide by the terms of A.R.S. § 32-1051 that states, inter alia, that Chase is under a
14 duty to act fairly and honestly with debtors.

15 95. Chase's actions are also a violation of the terms of A.R.S. § 32-1055. Chase is also
16 bound to abide by its terms even though it is not a collection agency.

17 94. Chase violated the terms of both of these statutes.

18 95. As a result of those violations, the Rolles have suffered damages.

19 COUNT FOUR-INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

20 96. Plaintiffs hereby reallege the allegations of the previous Paragraphs of this Complaint as
21 though fully set forth within.

1 97. The acts committed by Streeter and Chase were tortious, illegal and intentional and
2 designed to cause the Plaintiffs severe emotional distress.

3 98. Those actions were outrageous and not to be tolerated in a civil society.

4 99. As a direct and proximate result of those acts, the Plaintiffs have suffered damage.

5
6 COUNT FIVE-EXTORTION

7 100. Plaintiffs hereby reallege the allegations of the previous Paragraphs of this
8 Complaint as though fully set forth within.

9 101. Streeter is at base, a law office.

10 102. As such, the attorneys at Streeter certainly knew that Mrs. Rolle was not legally
11 responsible for the debts acquired by her husband before their marriage.

12 103. Despite that fact, Streeter threatened Mrs. Rolle with the ruin of her credit and her
13 husband's career if she did not provide them a large sum of money.

14 104. Additionally, Streeter threatened to garnish both Mrs. and Sgt. Rolles' wages.

15 105. A.R.S. § 13-1804(6) states that seeking to obtain property through threatening to
16 expose a secret, whether true or false that would damage a person's credit qualifies as the crime of
17 extortion, a Class 4 felony.

18 106. The above-referenced actions by Streeter constitute the crime of extortion.

19 107. Plaintiffs have suffered damage as the result of Streeter's illegal actions.

20
21 COUNT SIX-BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING

22 108. Plaintiffs hereby reallege the allegations of the previous Paragraphs of this
23 Complaint as though fully set forth within.
24

1 109. The account that is at issue in this case represents a contract between Chase and Sgt.
2 Rolle.

3 110. Every contract contains the covenant of good faith and fair dealing.

4 111. The illegal and tortious acts committed by Chase, its employees, its agents and their
5 employees, are breaches of the covenant of good faith and fair dealing.
6

7 112. As a direct result of those breaches, the Plaintiffs have been damaged.

8 COUNT SEVEN-NEGLIGENT SUPERVISION-ALL DEFENDANTS

9 113. Plaintiffs hereby reallege the allegations of the previous Paragraphs of this
10 Complaint as though fully set forth within.

11 114. Defendants had a duty to supervise their employees to ensure that in the course and
12 scope of their employment, those employees did not commit torts and illegal acts against Plaintiffs
13 and similarly situated parties.
14

15 115. During the course and scope of their employment with Defendants, employees of the
16 Defendants committed torts and illegal acts against the Plaintiffs.

17 116. As a result of those actions, Plaintiffs have suffered damage.

18 117. Defendant Chase had a duty to ensure that its duly appointed agents, like Streeter,
19 did not commit intentional torts and perform illegal acts during the scope of its agency.
20

21 118. Chase's agents committed torts and illegal acts that directly damaged the Plaintiffs.

22 119. Defendant Chase is responsible for those actions of its agents.

23 COUNT EIGHT-NEGLIGENT SUPERVISION-COLLECT AMERICA

24 120. The Plaintiffs reallege the allegations of the previous paragraphs and though fully set
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1 forth within.

2 121. Collect America had a duty to ensure that its franchisees, agents or otherwise related
3 business entities like the Law Office of Sam Streeter did not commit crimes or intentional torts in
4 the course of its actions taken in the furtherance of Collect America's business.

5 122. As a result of Collect America's negligence, the Rolles' have been damaged.

6 WHEREFORE, Plaintiffs pray for the following relief:
7

8 1. Damages in an amount sufficient to compensate Plaintiffs for the damage done to their
9 credit and professional reputations;

10 2. Damages in an amount sufficient to compensate Plaintiffs for the emotional trauma
11 they have suffered as a result of Defendants' actions;

12 3. Damages in an amount sufficient to compensate Plaintiffs for the civil penalties
13 demanded by the federal statutes the Defendants have violated;

14 4. Punitive damages in an amount sufficient to deter Defendants from similar future
15 conduct;

16 5. Reimbursement for Plaintiffs' costs and attorneys' fees;

17 6. For such other and further relief as this Court deems just and proper.
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19
20
21

S// Robert Ferrier
ROBERT M. FERRIER
MARTIN & FERRIER, P.C.
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I certify that on this 9th day of May, 2008, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic filing to the following registrant via email:

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